IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3669 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMESH VASRAMBHAI VAGRI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3669 of 2001

MS SUBHADRA G PATEL for Petitioner No. 1

MR K.T.DAVE, AGP for Respondents No. 1-3

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 04/10/2001

ORAL JUDGEMENT

By filing this petition under Article 226 of the Constitution, petitioner/detenu who has been detained by

the Commissioner of Police, Rajkot City, Rajkot, vide order dated March 15, 2001 (Annexure-A to the petition) in exercise of the powers conferred under sub-Section 2 of Section 3 of the Gujarat Prevention of Anti Social Activities Act, 1985 ('the act' for short hereinafter), has assailed the order of detention on various grounds and prayed to issue writ of habeas corpus or any other appropriate writ or order quashing and setting aside the impugned order of detention and further prayed to set him at liberty forthwith.

2. The grounds of detention order dated December 20, 2000 manifest that the petitioner is a prohibition bootlegger within the meaning of Section 2(b) of the Act as seven cases under Prohibition Act are registered against the petitioner/detenue which are pending trial. Therefore, according to the detaining authority his activities are detrimental to the maintenance of public order. Besides this the statements of 2 witnesses are recorded and therefore, the detaining authority has exercised the power under Section 9(2) of the Act and detained the petitioner/detenu.

3. The petitioner has challenged the detention order on various grounds. However, Ms Subhadra Patel, learned Advocate for the petitioner has stated that the detaining authority has not supplied the legible copies of the documents relied upon while passing the impugned order and on this ground alone this petition deserves to be allowed as the right to make an effective representation by the petitioner is jeopardized. In support of her aforesaid contention reliance is placed in the case of Vikramsinh Vs. State of Gujarat-1988(2) GLH page 414. She, therefore, urged to allow the petition by issuing a writ as prayed for and the petitioner may be set at liberty forthwith.

4. Mr. K.T.Dave, learned AGP has opposed this petition. He, however, does not dispute the factual aspect about non-supplying of the legible copies of the documents. He, therefore, urged that in the light of settled principles enunciated by this Court, appropriate orders may be passed.

5. I have considered the submissions advanced by the learned Advocates appearing for the parties. I have also perused the averments made in the petition as well as the impugned order of detention and the documents annexed therewith.

6. A similar question was arose before the Division

Bench of this Court in the case of Vikramsinh (supra) wherein this Court has held that; if some of the pages of the judgement supplied to the detenu are not legible, it would tantamount to non-communication of ground and, therefore, detention order was quashed.

7. Applying the aforesaid principle laid down by the Division Bench of this Court, at the cost of repetition, be it stated that some of the pages of the documents supplied to the petitioner are illegible and therefore the petitioner's right to make an effective representation is prejudiced as he could not make the effective representation before the authority and on the sole count, the petition is deserves to be allowed.

8. For the foregoing reasons, the petition succeeds and accordingly it is allowed. The impugned order of detention dated March 15, 2001 is hereby quashed and set-aside. The petitioner/detenu is ordered to be set at liberty forthwith if not required in connection with any other case. Rule is made absolute with no order as to costs. Direct service is permitted.

(A.M.Kapadia, J)

Jayanti*